



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** THE COMMISSION  
STAFF DIRECTOR  
GENERAL COUNSEL  
FEC PRESS OFFICE  
FEC PUBLIC RECORDS *MWD*

**FROM:** COMMISSION SECRETARY

**DATE:** July 15, 2002

**SUBJECT:** COMMENT: PROPOSED AO 2002-07

Transmitted herewith is a timely submitted comment by  
Richard F. Carrott, Chairman and CEO of Careau & Company.

Proposed Advisory Opinion 2002-07 is on the agenda for  
Thursday, July 16, 2002.

Attachment:

3 pages



"It's about  
Neighbors selling Neighbors  
where you own the Neighborhood."

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SECRETARIAT

JUL 9 10 16 AM '02

Phone: (805) 553-0150  
www.careau.com

Sent Via Fax and E-Mail

12.July 2002

Michael Marinelli, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: Request for Clarification

Dear Mr. Marinelli:

Thank you for faxing me the copy of the staff's Draft Opinion. As we have discussed, ours is not an adversarial relationship, and we have established a relationship of asking and receiving clarifications. This time, I would like to ask for the clarifications.

Let me begin, however, by addressing the point you raise at footnote 9. This is important to my understanding of the Draft and the points I would like clarified because it seems to set the stage for whether the committees would be uncompensated under our proposed program.

The footnote states that creation of the Website "is itself a form of marketing" for which Careau and Mohre need to be compensated and that past Opinions, specifically AO 1992-40, have found that parties bearing the marketing burden "has not been viewed as a meaningful distinction."

Given the facts in AO 1992-40, and relying in part on AO 1988-12, the Commission concluded that it was not a meaningful distinction whether LEC or the political party marketed the service. At page 5, the Draft points out that LEC shares a similarity other "affinity marketing arrangements" that the Commission has not approved:

- The offering entity/corporation ("entity") sought to gain access to political committee membership lists and the use of the party's name and goodwill to market the entity's products
- In exchange for this access, the entity proposed to pay the political party a fee or percentage from the entities accounts

Mr. Marinelli  
12 July 2002

Careau & Co

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However, this ignores the line of Opinion s where the Commission has allowed vendor-assisted fundraising programs; i.e., the 900-Line Programs referenced in our second May 20<sup>th</sup> memo. These programs also share similar features:

- As with the affinity marketing arrangements, the offering entity sought to gain access to political committee membership lists and the use of the party's name and goodwill to market the entity's products
- A contract relationship was established to ensure that the vendor would not be left financially at risk
- No funds were to be paid from commingled corporate treasury accounts

In addition to the exceptions, the Commission has identified to the affinity marketing programs, both the Act and the amendments created under the BCRA share a specific feature:

- The unequivocal right for a citizen (a non-prohibited individual) to make voluntary political contributions

During our informal discussions, we have not disagreed on these points. That is why I need to ask for some clarification before responding to the Draft.

First, in the continuation of footnote 8, at the bottom of page 7, the Draft states that "Careau and Mohre do not seem to be in a vendor relationship with the political committees." [Emphasis added.] Could you explain what is meant by this?

Second, the Draft concludes, at page 7, that because Careau and Mohre "are not receiving any payment for their Internet marketing services, your proposal, as presented, is subject to the corporate prohibitions of 2 U.S.C. 441b." The clarification I am seeking regarding this conclusion is in two parts:

1. Does this specifically refer to the points raised in footnote 9? That is, your apparent belief either that Careau and Mohre are not being paid the usual and normal charge for their services or that the point of the this compensation is not fully addressed.
2. Is the converse correct? If Careau and Mohre were being paid for their Internet marketing services, would the program, as presented, be allowable?

Mr. Marinelli  
12 July 2002

Carrau &amp; Co.

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These clarifications are important to our response to the Draft you sent and, I believe, might weigh into the decision process for the Commissioners.

Based on the schedule you sent me for submitting comments, the timing for your response is critical to us. We would like to have a response prepared and filed with your offices on Tuesday, at the latest. Thank you.

Respectfully,



Richard F. Carrott  
Chrm. and C.E.O.

cc: Lawrence H. Norton, Esq.  
Mary Dove, Commission Secretary  
Theodore G. Johnsen

02.07.11 LETTER to MrMarinelli\_FEC



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** THE COMMISSION  
STAFF DIRECTOR  
GENERAL COUNSEL  
FEC PRESS OFFICE  
FEC PUBLIC RECORDS

**FROM:** COMMISSION SECRETARY *MW*

**DATE:** July 17, 2002

**SUBJECT:** COMMENT: PROPOSED AO 2002-07

Transmitted herewith is a second timely submitted comment with addendum from Mr. Richard F. Carrott, Chairman and CEO of Careau & Company.

Proposed Advisory Opinion 2002-07 is on the agenda for Thursday, July 18, 2002.

**Attachment:**

**12 pages**



"The above  
"Thompson's Arkans. Neighbors"  
...where you were the "Thompson's"."

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Phone: (805) 553-0150  
www.careau.com

Sent Via Fax and E-Mail

16.July 2002

Lawrence H. Norton, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: Comments on Draft AO 2002-07 - Addendum

Dear Mr. Norton:

Earlier today, I sent to you, by Federal Express, what I believed to have been our final comments to Draft 2002-07. This letter bears witness to the fact that I was wrong.

At page 4 of our earlier comments, I wrote that one of the things that distinguish vendor-assisted fundraising programs is the need for funds from either the program or the committee to cover all costs associated with the fundraising efforts. However, I neglected to point out the unique structural element of our ISP program that helps to satisfy that standard. Once a party or candidate supporter subscribes to our program, their credit card is immediately debited. Again, at the beginning of each new month of service, that individual's credit card is debited for the cost (all costs, profits, and contributions) of the program.

In other words, the costs associated with each subscriber are pre-paid. Additionally, if the payment is not made, the service can be immediately "un-plugged." The pre-payment aspect and the ability to avoid losses by disconnecting service mean that there is minimal risk of loss under the program.

We submit these comments to you and ask that they be circulated to the Commissioners. Thank you.

Respectfully,

Richard F. Carrott  
Chrm. and C.E.O.

cc: Mary Dove, Commission Secretary (fax copy)  
Michael Marinelli, Esq. (e-mail copy)  
Theodore G. Johnsen

02.07.16 Letter to FEC - Comments re AO 2002-07



*"It's about  
neighboring business neighbors  
...where you own the neighborhood."*

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Phone: (805) 553-0150  
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Sent Via Fax and E-Mail

16 July 2002

Lawrence H. Norton, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: Comments on Draft AO 2002-07  
and Clarification of AOR 2002-07

Dear Mr. Norton:

Draft AO 2002-07 (the "Draft") concludes that because Careau & Co. ("Careau") and Mohre Communications ("Mohre") "are not receiving any payment for their Internet marketing services," the proposal is subject to the corporate prohibitions of 2 U.S.C. 441b. This conclusion is based upon an incorrect statement, which we believe arises from a misunderstanding of the program presented in our proposal (the "Program"). This may be, in part, because we attempted to explain the Program in terms of the Act and prior Advisory Opinions rather than trying to put it in plain language. I would like to correct that.

The Program

The Program is a fund raising vehicle that combines a competitively priced Internet access program with a grassroots program of monthly contributions to federal campaign committees, similar to other vendor-assisted fundraising programs; e.g., AOs 1990-14 (900-line programs), 1994-33 (pre-paid calling cards) and 1995-34 (credit card contributions through 900-line programs).

During the first quarter of 2002, the top 22 U.S. Internet Service Providers (ISPs) helped 63.3 million users access the Internet, according to a study by the National Telecommunications and Information Administration, while all other U.S. providers (over 7,000) connected 85.6 million users. The usual and normal range of pricing for full-service dial-up providers within this industry is from \$9.95 to \$23.95 per month, with the high-end providers typically providing several months of free service for annual contracts.

The ISP service that Careau and Mohre (the "Companies") have proposed falls in the mid-range of these pricings and allows individuals who chose to join to contribute a portion of the monthly membership charges to support political committees. As discussed below, this is similar to the vendor-assisted programs approved by the Commission in prior opinions. Further, the proposal to the Commission represents that the Program will comply with the standards established in these prior opinions, including: AO 1999-22

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(vendor-assisted programs); AO 1995-09 (screening); AO 1999-09 (required contributor information); etc.<sup>1</sup>

The principle elements of the Program are:

- Once established, the contributions recur monthly
- The contributions are made directly to each campaign committee by the individual contributor via a credit card/merchant account (taking advantage of the escrow-type nature of the merchant account)
- At the contributor's direction, monthly contributions are made to each of the federal campaigns directly related to the contributor, for example:
  - To the Congressional committee for the contributor's district: \$0.50
  - To each Senatorial committee (2) for the contributor's state: 0.15
  - To the Party's National Committee: 0.20
  - To the committee referring the contributor to the program: 0.35
- Committees are encouraged to use their "out of area" supporter lists to support fellow Party members because of the "referring contribution" that is paid monthly to the committee from whose list the contributor originated
- The committees promote the Program through an e-mail campaign to their supporter lists, including those lists developed internally through volunteer efforts (including local interest groups)
- The lists that committees used to promote the program remain the property of the committees and may be expanded by the information supplied, on a monthly basis, by the service provider in accordance with Commission requirements

#### Application of the Act and Commission Regulations

The Draft refers to two categories of vendor associated fundraising programs in reaching its conclusion. Under the first category, termed "affinity marketing arrangements," the vendor offers to pay a fee to a political committee for its endorsement and for the use of its supporter list. A common thread to these programs is an effort by the entity requesting the Advisory Opinion to style the corporate payment as something other than a contribution. The Commission has consistently found that contribution payments

<sup>1</sup> "Guidelines established under Advisory Opinions 2001-4, 1999-22, and 1999-9 will be followed under the Program, including website procedures, reports to committees, separate merchant identifications for each committee receiving contributions, 'written instrument' compliance with 11 CFR § 9034.2(b) (e.g., merchant account documentation showing that the separate amount received by each committee appears on the contributor's credit card bill for each contribution made and that the contributor authorized each contribution), document storage, disclaimer and best efforts requirements, and screening procedures." [Emphasis added.] See AOR 2002-07 at pages 4-5.



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using corporate treasury funds or funds that have been commingled with corporate treasury funds are a violation of 2 U.S.C. 441b.<sup>2</sup>

The second category of programs is sometimes referred to as "vendor-assisted fundraising." In prior opinions, as stated in the Draft, the Commission has allowed these programs and, in the process, established a series of guidelines for them.<sup>3</sup> Each time the Commission approved a vendor-assisted program, it examined whether the following standards were satisfied:

- A. Because vendor losses from a failed program would be viewed as contributions or in-kind contributions, the Commission has expressed a two-fold concern:<sup>4</sup>
  1. The Commission wished to ensure that none of the costs of the program would be left unpaid by the committee.
  2. The Commission was concerned that, regardless of the degree of success of the effort to raise funds, the committee would retain contribution proceeds while forgoing little, or the committee would assume little or no risk with the vendor bearing all, or nearly all, the risk.
- B. The Commission's primary concern in addressing the permissibility of vendor-assisted arrangements is whether prohibited in-kind corporate contributions or expenditures would result.<sup>5</sup> The Commission has concluded that as long as the vendor, or any other company providing service to vendor in connection with its service, provides its usual and normal services at its usual and normal charges it will not, in most circumstances, have made a prohibited corporate contribution.<sup>6</sup>
- C. The Commission wanted to ensure that costs of third-party vendor services, such as fulfillment and merchant bank services did not result in prohibited contributions. The Commission concluded that these costs could be included in

<sup>2</sup> The Draft lists Advisory Opinions 1992-40, 1988-12, and 1979-17 as examples of this category of arrangement. In AO 1979-17, the bank offer to pay a fee for each based upon each subscriber; in AO 1988-12, a bank offered to pay a fee for access to a committee's list; and, in AO 1992-40 a telephone services company offered a fee based upon a percentage of sales to party members. See Draft at footnote 8.

<sup>3</sup> Footnote 8 to the Draft identifies Advisory Opinions 1999-22, 1995-34, 1994-33, and 1990-14 as examples of these programs, using the committee's payment of "a commercially reasonable fee in exchange for the firm's efforts" as the standard. Attachment No. 1 presents summaries of these opinions.

<sup>4</sup> See AO 1990-14 citing Advisory Opinions 1990-19, 1990-1, 1989-21, 1979-36, and 1976-50.

<sup>5</sup> See AO 1994-03.

<sup>6</sup> See AO 1990-14. See also AOs 1994-33 and 1995-34. In AO 1999-22, the Commission concluded that the vendor's "proposal would provide for adequate compensation and its procedures would seem to be in the normal course of business for a vendor within its industry dealing with a similarly situated non-political client. These arrangements avoid creating a situation where the vendor provides services to a political committee either without charge, or at less than the usual and normal charge, and thereby makes a corporate contribution prohibited by 2 U.S.C. 441b(b)(2)."

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Careau & Co.

the contract rate and was deducted from the authorized contribution so that no corporate contribution resulted.<sup>7</sup>

- D. The Commission has not required that all of the funds raised in a vendor-assisted program be generated by, controlled by, or received by the political committee;<sup>8</sup> however, the entire amount of the contributor's transaction must be treated as a contribution to the political committee.<sup>9</sup>
- E. The Commission has concluded that the treatment of contributions is a concern.<sup>10</sup>

These guidelines and Commission opinions have been adopted as standards for others to follow. However, the Draft concludes that "American Plan" is "very similar" to the affinity programs in basic approach without really weighing the Program against the vendor-assisted standards.<sup>11</sup> What distinguishes vendor-assisted fundraising programs from affinity marketing programs is the need for funds from either the program or the committee to cover all costs of the program. This indicates that the offer-acceptance-consideration element of the contract needs to be expanded to include (concerns may be met by/in combination):

- Will a deposit or advance payment be required, sufficient to ensure no costs are left unpaid by the committee?
- Are costs and fees associated with the Program consistent with the usual and normal charges for non-political customers within the industry?
- Is the vendor, in this case the Companies, providing its contract service at a usual and normal charge?
- Are steps being taken to ensure that a vendor or subcontractor is not financing the committee during a certain period?
- Is there any commingling of contributed funds with corporate treasury funds?

#### Program Qualification as a Vendor-Assisted Program

The Companies have relied, in part, on the concept that once a standard is established, it is only necessary to state whether or not that standard will be adopted. As stated in the AOR 2002-07, and as expanded in the May 20 memos replying to the FEC staff, the Companies have stated that they will comply with the guidelines established by

<sup>7</sup> See AO 1994-33. See also AO 1995-34.

<sup>8</sup> For instance, in AO 1995-34, The Commission noted no part of the revenue from the vendor service itself (as opposed to the credit card contributions) reached the political committee.

<sup>9</sup> See AO 1995-34.

<sup>10</sup> In AO 1999-22, the Commission concluded that placing such funds in the same corporate account with other funds would lead to a commingling of corporate funds and campaign funds prohibited by section 441b.

<sup>11</sup> The Draft notes that Careau's Advisory Opinion Request cites AO 1994-33 in support of our proposal, but merely concludes that "Careau and Mohre do not seem to be in a vendor relationship" with the committees. [Emphasis added.]

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the Commission in specific, prior opinions. Such compliance statements have been sufficient in prior opinions for the Commission to assume even broader compliance.<sup>12</sup>

Given the broad adoption of the guidelines set forth under the vendor-assisted programs line of opinions, the Companies have agreed to observe, among other things, the following procedures (also, see Attachment Nos. 2 and 3):

- The contract rate received by the Companies, along with payments for up-front expenses, will guarantee a profit regardless of the success or failure of the transaction with a particular committee, satisfying concerns as to profit and advances. However, as necessary, a deposit or advance payment will be required under agreement with the committees, sufficient to ensure no costs are left unpaid by the committee.
- Agreements with all vendors for costs and fees associated with the Program consistent with the usual and normal charges for non-political customers within the industry. This includes the Companies who also will be providing contract service to the Committees at a usual and normal charge for non-political customers within the industry.
- All subscriber payments under the Program will be by credit card to ensure that a vendor or subcontractor is not financing the committee during a certain period. Additionally, because these payments will be disbursed through a merchant account, there will be no commingling of contributed funds with corporate treasury funds.
- Although the actual contributions to the committees will total about \$2 per month under the Program, the entire amount of a subscriber's credit card transaction will be treated as contributions to the political committees, including the amounts retained by the Companies for payments to themselves and subcontractors for services rendered to the committees.

These procedures are in addition to the other procedures enumerated under the Program, such as screening, gathering, and reporting required subscriber information.

<sup>12</sup> Assuming that the contract rate (along with payments for up-front expenses) guarantees a profit to VITEL regardless of the success or failure of the transaction with a particular committee, your proposal would satisfy the concerns as to profit and advances. The Commission also assumes that the profit for these transactions comports with those for transactions with non-political customers. See AO 1994-33.

You have stated that Politechs will ensure that the political committees do not receive any services for which Politechs, or the third party vendors with whom it contracts, remains compensated below the usual and normal charges for all services received. The Commission assumes that the charges paid by Politechs and the vendors will be included in the computation of the usual and normal charge to the political committees. The Commission further assumes that this usual and normal charge rule will be followed as regards the amounts charged in the arrangements between vendors contracting with Politechs and other vendors providing services... See AO 1995-34.

You represent that you will use a number of screening functions of the type described in Advisory Opinion 1991-20; the Commission assumes this includes obtaining similar types of tone or voice indications from callers aimed at preventing contributions from prohibited sources. See AO 1995-34.

Careau &amp; Co.

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Conclusion

Based on the foregoing, we believe that staff's conclusion is wrong.

The Draft states that our explanation "does not address the issue of whether Careau and Mohre are being paid the usual and normal charge by the Federal political committees for the services they provide to the Federal political committees." I hope that we have clarified our position - that under the Program, as presented, the Companies are being compensated by the committees. They are being compensated for their usual and normal services at a usual and normal rate for the industry. Moreover, the contract rate being paid to them - qualifying the relationship as a vendor type relationship - guarantees them a profit, regardless of the success or failure of the Program with a particular committee.

This is not an affinity marketing arrangement, as the Draft suggests. The contributed funds are not being commingled with corporate treasury funds, and the contracted vendors, including the Companies are not at risk under the program. The Program recognizes, embraces, and satisfies the standards of vendor-assisted fundraising programs, as authorized by the Commission in prior opinions.

As such, Careau and Mohre are proposing to engage in a vendor-assisted program for fundraising that is allowable under the Act, prior Commission opinions, and the uniform standards established by the Commission under those prior opinions.

Further, because the structure of the Program involves a right of individual citizens to contribute to federal election campaigns, as protected under the Act and the U.S. Constitution, we believe that the Program is undoubtedly allowable under the amendments provided by the Bipartisan Campaign Reform Act of 2002.

We submit these comments to you and ask that they be circulated to the Commissioners. Thank you.

Respectfully,



Richard F. Carrott  
Chrm. and C.E.O.

w/attachments

cc: Mary Dove, Commission Secretary (fax copy)  
Michael Marinelli, Esq. (e-mail copy)  
Theodore G. Johnsen

Attachment No. 1**Prohibited Affinity Marketing Programs****ADVISORY OPINION 1979-17**

"[A] national bank proposed to market its credit card services to members of the Republican National Committee. In return, among several options, it offered to pay either a one-time fee to the RNC or a portion of the membership fee paid by each subscriber to the credit card service."

The Commission concluded that any payments made and valuable services provided by card issuing banks to the RNC would constitute contributions.

**ADVISORY OPINION 1988-12**

"[A] county Democratic Party committee proposed to give access to its list of supporters so that a bank could market its credit card services. A portion of each membership fee would be remitted to the local party committee."

The Commission concluded that the proposed payments by the bank to the committee would constitute prohibited contributions.

**ADVISORY OPINION 1992-40**

"[A] company selling long distance telephone services proposed to sell, with the marketing support of political party committees, its services to party members or donors. Again a percentage of the sales generated would be paid to a political party committee as a commission."

The Commission concluded that the commissions received from the company were prohibited corporate contributions.

In each of these cases, corporate treasury funds were being used to make payments to the committees.

**Approved Vendor-Assisted Fundraising Programs**

[As a general rule, the label Affinity Program is not used to describe these programs. Rather, these programs are typically termed vendor-assisted fundraising programs.]

**ADVISORY OPINION 1990-14**

AT&T proposed to use 900-line telephone services to promote candidates and political committees by contracting with service bureaus, *inter alia*, to solicit contributions. AT&T required a contribution amount of \$50 or less for each 900 telephone call. Charges remitted to the service bureau are deducted to cover costs including AT&T's return on its investment. The Commission concluded that because the bureau required a committee deposit to cover costs and possible losses the provision of services would not result in contributions by the incorporated service bureau. The Commission stated that its concerns were two fold in prior opinions. "First, the Commission wished to ensure that none of the costs of the program would be left unpaid by the committee. Second, the Commission was concerned that, regardless of the degree of success of the effort to raise funds, the committee would retain contribution proceeds while forgoing little, or the committee would assume little or no risk with the vendor bearing all, or nearly all, the risk."

Attachment No. 1

The Commission further concluded that as long as AT&T, or any other company providing service to AT&T in connection with its service, provides its usual and normal services at its usual and normal charges it will not, in most circumstances, have made a prohibited corporate contribution. The Commission commented that a possible exception might result from the fact that funds could be disbursed prior to the contributions actually being collected because pledges were sold as receivables. [In later opinions, the Commission resolved that credit card payments directly to committees resolved this type of concern.]

**ADVISORY OPINION 1994-33**

"[A] telecommunications company [VITEL] proposed to market prepaid phone cards using the endorsements of various authorized candidate committees, as well as political party entities. The cards were produced by the telecommunications company to be distributed by the client political committees. For each instance when time was purchased on the phone card, through use of the purchaser's credit card, a portion of the dollar value of the card so purchased could be designated as a contribution to the client political committee. The political committee, however, paid the telemarketing firm a fee, which included all processing costs and a commercially reasonable profit. The Commission found this proposal was permissible under the Act and Commission regulations."

The Commission's primary concern in addressing the permissibility of the described arrangements is whether prohibited in-kind corporate contributions or expenditures would result. The Commission noted that, if the vendor did not receive the usual and normal charge for its services, it would have made an in-kind corporate contribution. In discussing the proper charge, the Commission has focused with particularity on the need for an adequate profit and on the advance of services or contribution proceeds without assurance of adequate compensation to the vendor.

The Commission concluded that, with the assumption that the contract rate (along with payments for up-front expenses) guaranteed a profit to VITEL regardless of the success or failure of the transaction with a particular committee, the proposal would satisfy the concerns as to profit and advances. The Commission also assumed that the profit for these transactions comported with those for transactions with non-political customers.

The Commission also concluded that because the costs of fulfillment and merchant bank services were included in the contract rate and was deducted from the authorized contribution, no corporate contribution resulted. Corporate contributions were also avoided by the immediate debiting of the caller's credit card for the making of the contribution. This eliminated the concern that VITEL or a subcontractor company was financing the political contributions made by the cardholders during a certain period and, thereby, making advances of corporate funds.

The Commission further concluded that VITEL was attempting to take precautions regarding screening and reporting guidelines.

**ADVISORY OPINION 1995-34**

Politechs, an information provider, proposed to contract with committees for the delivery of 900-line services for fundraising by political committees. The services were to be obtained from the various vendors at the usual and normal charge for similar services, with the rate including expenses plus a reasonable profit. Politechs ensured that the political committees would not receive any services for which Politechs, or the third party vendors with whom it contracted, remained uncompensated or compensated below the usual and normal charge for all services received. Additionally, the aggregate cost of calls from the same telephone number was limited to \$50. The amount Politechs

Attachment No. 1

proposed actually remitting to the political committee will be reduced by the clearing, processing, and service charges deducted by various vendors (which service charges will be considered expenditures by the political committees). However, the entire amount of the caller's credit card transaction would be treated as a contribution to the political committee.

The Commission stated that prior opinions made clear that such entities must provide their services to each political committee customer at the usual and normal charge in order to avoid corporate contributions to the political committee. The Commission concluded that Politechs' assurances satisfied this provision. The Commission further assumed that these assurances would have a blanket that this included vendor charges paid and that usual and normal charge rule compliance by all vendors providing services, so that the amount that Politechs considered to be the usual and normal charge to the political committee would not be reduced by underlying costs lower than the usual and normal charge.

The Commission concluded that a requirement for advance payment for set-up charges, a deposit sufficient to cover costs, and termination of services to prevent losses exceeding the deposit appear to ensure that the political committee does not receive an in-kind corporate contribution.

The Commission concluded that while no part of the revenue from the call itself (as opposed to the credit card contributions) reached the political committee, the amount the caller pays is still a contribution to the committee. Therefore, it remained necessary that Politechs obtain the name and address of the contributor along with the contribution amount and date, and forward that information to the committee.

The Commission further concluded that the full amount paid by the callers for the calls themselves were reportable as contributions. These amounts are also included in the reportable operating expenditure amounts because they were being retained by Politechs (for payments to itself and subcontractors) for the services rendered to the committee. The committee's operating expenditures also include the amounts it pays to Politechs directly.

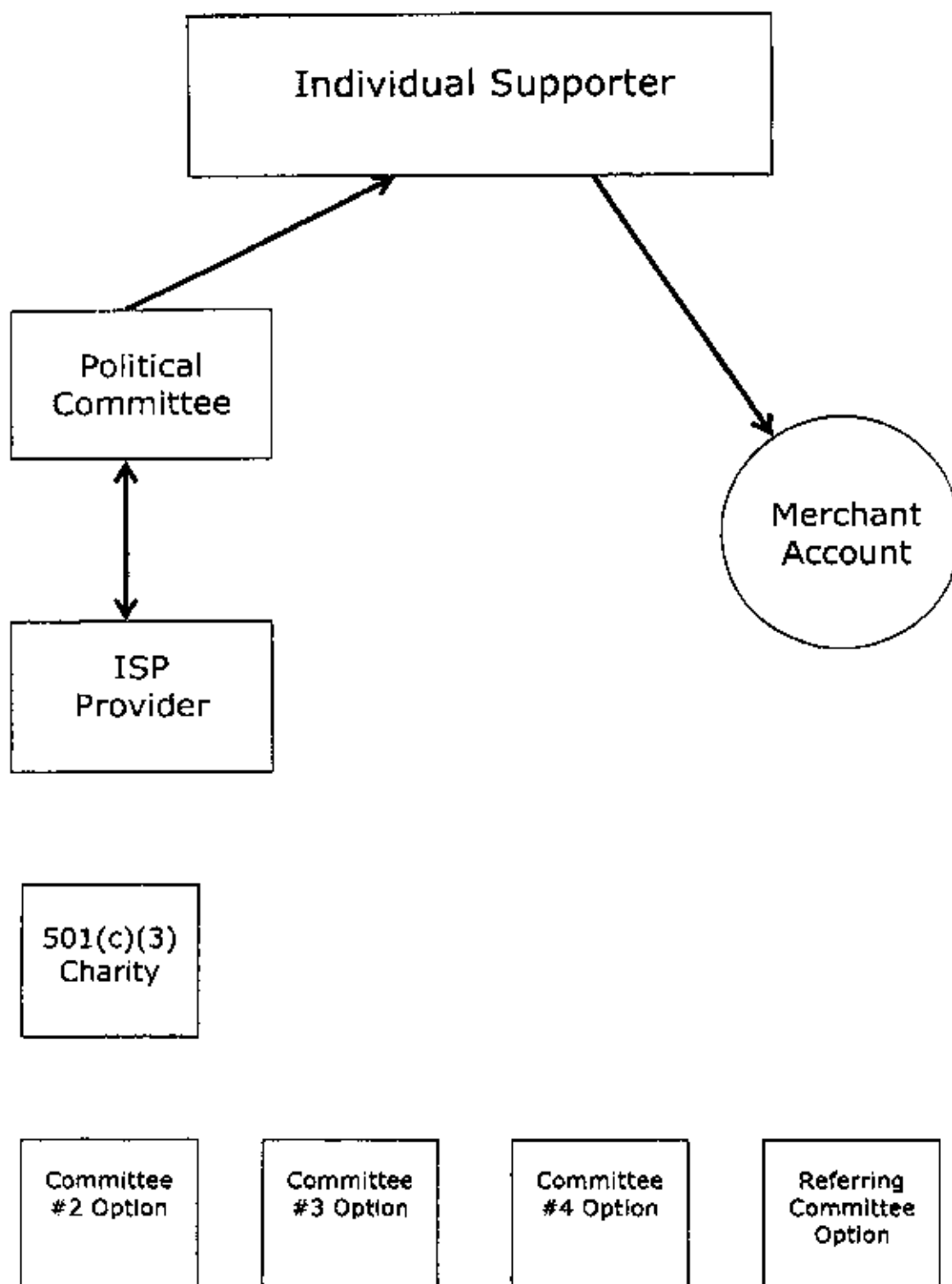
#### ADVISORY OPINION 1999-22

Aristotle Publishing, Inc. ("Aristotle"), a publisher of software and provider of related services allowing Federal candidates to receive contributions by credit card through the Internet, proposed methods to assist various political committee and candidate clients in fundraising through the Internet. An important part of the described transactions is that Aristotle will use its own "merchant ID number" for clients for whom it is collecting and forwarding the credit card contributions.

The Commission concluded that Aristotle's screening procedures complied with prior opinions. The Commission also concluded that Aristotle's proposal would provide for adequate compensation and its procedures would seem to be in the normal course of business for a vendor within its industry dealing with a similarly situated non-political client. These arrangements avoid creating a situation where the vendor provides services to a political committee either without charge, or at less than the usual and normal charge, and thereby makes a prohibited corporate contribution.

The Commission further noted that the treatment of contributions raised through fundraising with vendor participation was of greater concern than the recording of the transaction. The Commission concluded that placing such funds in the same corporate account where it places its other funds would lead to a commingling of corporate funds and campaign funds prohibited by section 441b.

## Careau/Mohre Vendor-Assisted Fundraising Program — Contract Relationships





# Careau/Mohre Vendor-Assisted Fundraising Program — Money (\$) Flow

